



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,470	01/15/2004	Aaron T. Becker	P06674US0-5213	5862
34082	7590	11/02/2005		
ZARLEY LAW FIRM P.L.C. CAPITAL SQUARE 400 LOCUST, SUITE 200 DES MOINES, IA 50309-2350			EXAMINER LOPEZ, FRANK D	
			ART UNIT 3745	PAPER NUMBER

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/758,470

Applicant(s)

BECKER, AARON T.

Examiner

F. Daniel Lopez

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 9 August 2005
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Response to Amendment

Applicant's arguments filed August 9, 2005, have been fully considered but they are not deemed to be persuasive.

Applicant's arguments with respect to claims 4-8 have been considered but are deemed to be moot in view of the new grounds of rejection. The new grounds of rejection are necessitated by the added limitations that the notch tapers to a point.

Applicant argues that adding a limitation that the notch tapers to a point overcomes the problem with the notch being irregularly shaped. Applicant is mistaken. By adding this limitation to the irregularly shaped limitation, instead of replacing the irregularly shaped limitation, the question becomes how the notch is tapered and irregularly shaped. The specification does not indicate the answer to this question.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Specification

The disclosure is objected to because of the following informalities: Throughout the specification the notch 28 is characterized as having an irregular cross sectional area (e.g. page 4 line 10-11). The drawings (e.g. fig 3) show and the specification (e.g. page 4 line 12-13) supports that the notch tapers inwardly to a point, and compares this to the prior art, which has a rectangular notch. A tapered surface is a regular shape, and therefore one of ordinary geometric skill would be confused as to how it can be characterized as being irregular. It would appear that what the specification indicates as irregularly shaped is the taper. If this is true, it is confusing since, in general, tapers are regular shapes. If this is untrue, it is unclear how the notch is irregularly shaped, in addition to having a tapered shape. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1-8 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 line 4-5 “irregularly shaped metered porting notch that tapers to a point”, and claim 4 line 5 and claim 5 line 4 “irregularly shaped servo drain metering porting that tapers to a point” are confusing, for the reason discussed above in the objection to the specification. It is suggested that “irregularly shaped “ be deleted, to overcome this rejection.

Claims not specifically mentioned are indefinite, since they depend from one of the above claims.

Claim Rejections - 35 USC § 102

Claims 4-8, inasmuch as they are definite, are rejected under 35 U.S.C. § 102(b) as being anticipated by Rampen. Roeske discloses a rotary spool valve (fig 4, 5) disposed partially in a spool sleeve (fig 6), wherein the rotary spool is connected to a pump (via 130) and a drain (132) and has servo fill and servo drain metering ports that tapers to a point (232); wherein the rotary spool is rotated to create an “error” signal (i.e. generating a fluid flow). Note that the preamble is considered intended use, and therefore is given no patentable weight.

Conclusion

Claims 1-3 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3745

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:15 AM -3:45 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is 571-273-8300. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.



F. Daniel Lopez
Primary Examiner
Art Unit 3745
October 28, 2005